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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re M.T., a Person Coming Under the
Juvenile Court Law.

2d Juv. No. B236979
(Super. Ct. No. JV49638)
(San Luis Obispo County)

THE PEOPLE,

Plaintiff and Respondent,

v.

M.T.,

Defendant and Appellant.

M.T. appeals a restitution order following his admission of the allegations of a juvenile wardship petition (Welf. & Inst. Code, § 602) that he committed battery (Pen. Code, § 243, subd. (d))¹ on J.R., a 15-year-old high school student. We conclude the juvenile court did not abuse its discretion by awarding \$697.78 as restitution to J.R.'s mother for lost wages due to attending hearings in this case. We affirm.

FACTS

On September 14, 2010, during a lunch break at school, M.T. threatened to "punch" J.R. "in the face." M.T. sent J.R. a "series of text messages" telling him to meet him after school "to fight."

¹ All further statutory references are to the Penal Code.

Later that day M.T. approached J.R. from the parking lot. He hit J.R. in the face and "shoved him to the ground." He kicked J.R. in the abdomen, "attempted to slam his head against the ground," and punched his head "multiple times."

M.T. told police that he was angry because J.R. had been "talking shit." He said, "I just lost it. I know I was wrong, but I just lost it."

J.R.'s mother attended the juvenile court hearings. She sought reimbursement for \$1,480.82 for eight days of lost wages due to her attendance at these hearings. Her employer submitted a statement that her "total" lost pay amounted to \$1,285.06.

At the restitution hearing, the prosecutor said J.R.'s mother was entitled to reimbursement because she was there to assist "with a prosecution" and "provide input" to the prosecutor.

M.T.'s counsel objected to reimbursement on the grounds that: 1) J.R.'s mother did not testify, 2) her appearance at court was not necessary, and 3) she submitted an excessive claim listing six missed eight-hour shifts at a daily salary of \$195.76. He said the court hearings involved partial days and she could have returned to work for those six days "to work partial shifts."

In the probation report, the probation officer noted that J.R.'s mother had recently reduced her claim and was now seeking \$697.78.

The juvenile court said, "It looks like [she] modified her position to four hours a day in the memo that I have." The court awarded \$697.78 "for lost wages." It said, "Minors need to realize that people do lose wages when they have to come to court as a result of a minor's conduct"

DISCUSSION

The Restitution Award for Lost Wages

""The standard of review of a restitution order is abuse of discretion.""
(*People v. Keichler* (2005) 129 Cal.App.4th 1039, 1045.)

M.T. contends the lost wage restitution order should be reversed because J.R.'s mother was not a witness and did not assist the prosecutor. He claims under section

1202.4, subdivision (f)(3)(E), a parent of a child victim may only obtain restitution for lost wages for attending trials "as a witness or in assisting the police or prosecution." (§ 1202.4, subd. (f)(3)(E).)

At the restitution hearing, M.T.'s counsel did not call witnesses or present evidence. He decided to rely on oral argument to challenge the reimbursement claim documents in the record. He claimed J.R.'s mother did not assist the prosecution. But the prosecutor disagreed. The juvenile court that conducted these hearings was in the best position to resolve this dispute. It implicitly found against M.T. It said J.R.'s mother was "entitled to lost wages" for "time spent in court assisting the prosecution."

But even if M.T. is correct that J.R.'s mother did not assist the prosecutor, the result does not change. In *People v. Crisler* (2008) 165 Cal.App.4th 1503, 1509, the court held parents of a victim were entitled to reimbursement for lost wages for attending the trial of the man who killed their son. It said, "These expenses readily qualify as 'economic loss incurred as the result of the defendant's criminal conduct' since they would not have been incurred had defendant not murdered their son." (*Ibid.*) The court noted that they were entitled to attend these proceedings "in an attempt to gain some measure of closure and a sense that justice has been done." (*Ibid.*) "This is not the sort of situation where an award of expenses will 'impermissibly "allow [the] victim to be opportunistic.'"" (*Ibid.*) "[E]ach of the parents is a 'victim' under the statutory scheme." (*Id.* at p. 1508.)

The court in *Crisler* held section 1202.4, subdivision (f)(3)(E) does not restrict the court's authority to award lost wage restitution for parents of victims. The statute lists examples of reimbursable categories, but trial courts retain discretion to reimburse for items not listed. "[T]he express mention of one category of loss (lost wages due to time spent as a witness or in assisting law enforcement) does not preclude reimbursement for other economic losses." (*People v. Crisler, supra*, 165 Cal.App.4th at p. 1509.) "Consequently, regardless of whether section 1202.4, subdivision (f)(3)(E) specifically covers the parents' request for lost wages . . . , the trial court did not abuse its discretion in awarding restitution for those expenses." (*Ibid.*)

J.R.'s parents filed a statement with the probation department. They said, "Months before the actual assault was committed on [J.R.] we endured [M.T.'s] relentless acts of bullying and hostile behavior - through texting, verbally at school, and his constant harassing through social networking sites." They said, "Our family has all been a victim of [M.T.]." The juvenile court could reasonably find that J.R.'s mother attended the proceedings "to gain some measure of closure and a sense that justice has been done." (*People v. Crisler, supra*, 165 Cal.App.4th at p. 1509.)

"[T]he court may use any rational method of fixing the amount of restitution, provided it is reasonably calculated to make the victim whole, and . . . is consistent with the purpose of rehabilitation." (*In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1391-1392.) Here the juvenile court was able to observe the parent at the court hearings. It considered the representations made by the prosecutor. It reviewed the various reimbursement claim records, the probation report, and the parent's modification and reduction of her initial lost wage claim. It considered M.T.'s objections. The court found that restitution was consistent with the purpose of rehabilitation. M.T. has not shown an abuse of discretion.

The order is affirmed.

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GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Ginger E. Garrett, Judge
Superior Court County of San Luis Obispo

Jolene Larimore, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Steven D. Matthews, Supervising Deputy Attorney General, Analee J. Brodie, Deputy Attorney General, for Plaintiff and Respondent.